IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

WP(C).No. 4155 of 2007(T)

PETITIONER:

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1. JOSHIJ. K., S/O.CHANDRAN,
   ARUTHIRUTHI VAYALIL,
   MAKKADA P.O., KAKKODI-16.

2. PRASANTH. A., AGED 29 YEARS,
   S/O.ARAVINDAKSHAN, RAGAM,
   KOTTAKKADAVU, KADALUNDI P.O.

3. THEJAS. M.R., AGED 23 YEARS,
   S/O.RADHAKRISHNAN, MATTILAYIMMAL,
   VALIYAPARAMBA P.O., KODUVALLY VIA.,
   KOZHIKODE-16.

4. SUJITH K., AGED 28 YEARS,
   KOUSTHUBHAM, POORATHARACHALI ROAD,
   PUTHIYANGADI P.O., KOZHIKODE-21.

5. SMITHA. C., AGED 32 YHEARS,
   PRANAVAM, M.L.A.ROAD KOVOOR,
   CHEVAYUR P.O.

6. SABINA T.V., AGED 28 YEARS,
   THATTARI HOUSE, MAYANAD, CALICUT-08.

7. VIPINDAS. P., AGED 29 YEARS,
   S/O. UMMEERI P., POOPPARAMBIL,
   MAKKADA P.O., KOZHIKODE-02.

BY ADV. SRI.P.S.SREEDHARAN PILLAI
SMT.P.RANI DIOTHIMA

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY ITS SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE SECRETARY, KERALA PUBLIC SERVICE COMMISSION, THIRUVANANTHAPURAM.

3. THE DISTRICT COLLECTOR, KOZHIKODE.

BY GOVT.PLEADER SRI.BIJOY CHANDRAN
BY ADV.SRI.P.C.SASIDHARAN R2

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO.4155 of 2007

Dated this the 7th day of February, 2007

JUDGMENT

The petitioners are candidates included in the rank list published by the Public Service Commission for the post of Lower Division Clerks in various departments in Kozhikode district. This writ petition has been filed seeking reliefs mainly against the alleged inaction of the third respondent in reporting the vacancies of Lower Division Clerks to the second respondent Commission and the action of the third respondent allowing the employees who were found surplus in the Malabar Market Committee on implementation of the Madras Commercial Corps Market Act 1933, which action, according to the petitioners, will reduce the number of posts which otherwise would have gone to the benefit of the petitioners.

2. As far as the first relief is concerned, the petitioners are entitled to say that substantive vacancies in the post of Lower Division Clerks which are to be filled up by direct recruitment through Public Service Commission shall be reported to the second respondent Commission as early as possible. The rank list came into operation with effect from 1.2.2006. The Commission has published another notification inviting applications for the very same posts and the candidates included in the present rank list will not be considered, once the rank list pursuant to the latest notification comes into operation. Therefore, the third respondent is directed to report to the second respondent, forthwith, all vacancies in the post of Lower Division Clerks which are to be filled up by the third respondent by direct recruitment through Public Service Commission.

3. As far as the second relief is concerned, I find it difficult to grant the same. Ext.P3 order was passed on 21.8.2004. Not only Lower Division Clerks but also Supervisors, Peons, Drivers, Sweepers,Watchmen etc. also were found surplus in the Malabar

Marketing Committee. The prayer made by the petitioners to interfere with Ext.P3 does not confine to the posts of Lower Division Clerks only. It is evident that Ext.P3 has worked itself out and by filing a writ petition in 2007, the petitioners cannot be allowed to walk away with a relief which would unsettle things that have reached the final stage. None who got appointment in the Govt. Departments from the Malabar Marketing Committee, is a respondent in this writ petition. Behind the back of affected persons, no relief can be granted to the petitioners. The petitioners are candidates included in a rank list published by the Commission. They have no right to get appointment merely on such inclusion. The rank list, admittedly, has come into operation only on Ist February 2006. Ext.P3 was issued on 21.8.2004. For that reason also, the petitioners have no right to question the correctness or validity of Ext.P3 proceedings. Hence, viewed from any angle, the reliefs sought for against Ext.P3 is liable to be rejected.

4. The writ petition is allowed as far as it concerns direction

to the third respondent to report vacancies of Lower Division Clerks, but dismissed in other respects.

The petitioners shall produce a copy of the judgment and a copy of the writ petition before the third respondent for information and compliance.

K.K.DENESAN, JUDGE

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